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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/517,034	12/07/2004	Michael A Zemlok	0275J-000581/NPB	2784
27572 7590 06/13/2007 HARNESSE, DICKEY & PIERCE, P.L.C. P.O. BOX 828 BLOOMFIELD HILLS, MI 48303			EXAMINER CHOI, STEPHEN	
			ART UNIT 3724	PAPER NUMBER
			MAIL DATE 06/13/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.	Applicant(s)	
10/517,034	ZEMLOK ET AL.	
Examiner	Art Unit	
Stephen Choi	3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- ☒ Responsive to communication(s) filed on 02 May 2007.
- ☐ This action is **FINAL**. ☒ This action is non-final.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 23-32 is/are pending in the application.
  - Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 23-32 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- ☐ The specification is objected to by the Examiner.
- ☒ The drawing(s) filed on 07 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - ☒ All
  - ☐ Some
  - ☐ None of:
    - ☐ Certified copies of the priority documents have been received.
    - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date 12/7/04.
- ☐ Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election without traverse of group II in the reply filed on May 02, 2007 is acknowledged.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 23-25 and 28-32 are rejected under 35 U.S.C. 102(b) as being anticipated by Looper et al. (US 5,023,999).

Looper discloses all the recited steps of the invention including steps of inserting a drive system (e.g., 54, 30) through a cavity in a symmetrical handle (e.g., portion of 12, 14, 18), fastening a symmetrical drive housing to the symmetrical handle (e.g., chamber portion of 12) wherein the drive housing, the symmetrical handle, and the drive system are coupled with a plurality of common fasteners (e.g., the chamber portion of 12 (the drive housing) is connected to the portion of 12 (portion of the handle) and the portion of 12 is connected to 30 (the drive assembly) by a plurality of common fasteners (70)). Regarding claims 24 and 32, fastening a guard assembly including a guard and a shoe (e.g., 24, 26, 28) to the drive housing (e.g., Figure 2). Regarding claim 25, a motor and a gear case (e.g., 30, 54). Regarding claim 29, a flange on the drive system (e.g., 60). Regarding claim 30, a flange on the drive housing (e.g., at 66).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 26 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Looper et al.

Looper discloses the invention substantially as claimed except for a pair of substantially symmetrical air flow passages having substantially symmetrical fins and ribbing, and a step of mounting a battery to the handle. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a pair of substantially symmetrical air flow passages having substantially symmetrical fins and ribbing on the device of Looper since the examiner takes Official Notice on the use of a pair of substantially symmetrical air flow passages having substantially symmetrical fins and ribbing as old and well known in the art for the purpose of cooling to prevent overheating. Palm shows an example. Furthermore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a battery mounted on the handle on the device of Looper since the examiner takes Official Notice on the use of handle-mounted battery as old and well known in the art for the purpose of providing a compact and easily handled tool. Watson shows an example.

***Conclusion***

Art Unit: 3724

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Heininger, Zeiler, Watson, and Langis are cited to show related devices.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Choi whose telephone number is 571-272-4504. The examiner can normally be reached on Monday-Thursday 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer D. Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

sc  
8 June 2007

  
**STEPHEN CHOI**  
**PRIMARY EXAMINER**